

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

ELDON HUFFINE,)	Cause No. CV 06-61-H-SEH-RKS
)	
Plaintiff,)	
)	
vs.)	FINDINGS AND RECOMMENDATION
)	OF U.S. MAGISTRATE JUDGE
DONALD W. MOLLOY; KURT ALME;)	
LEIF ERICKSON; DOES I-X;)	
UNITED STATES OF AMERICA,)	
)	
Defendants.)	
)	

On December 14, 2006, Plaintiff Eldon Huffine moved to proceed in forma pauperis with this action under 42 U.S.C. § 1983. Huffine is proceeding pro se.

Other than a 1986 Buick, Huffine's very brief affidavit does not disclose any items of real or personal property as assets. *See* Mot. (doc. 2) at 2. Huffine is not telling the whole story. A Presentence Report prepared in the case of *United States v. Huffine*, No. CR 05-19-BU-DWM (D. Mont. filed Aug. 19, 2005), indicates that, during a home visit, he was found to have several firearms and various vehicles and that he receives rental income of \$2,000.00 per year from a home that he rents to a friend. While he claims to have debts of up to \$290,000.00, *see* Mot. to Proceed In Forma Pauperis (doc. 2) at 4, *Huffine v. Seidlitz*, No. CV 06-54-H-DWM-RKS (D. Mont. filed Oct. 31, 2006), no outstanding credit card debt at all appears on his credit record. The public records portion

FINDINGS AND RECOMMENDATION
OF U.S. MAGISTRATE JUDGE / PAGE 1

of his credit report shows debts totaling less than \$16,000.00. *See* Presentence Report ¶¶ 48, 55-56.

The Court concludes that Huffine is not a trustworthy affiant. He should not be permitted to proceed in forma pauperis.

Pursuant to *Minetti v. Port of Seattle*, 152 F.3d 1113, 1114 (9th Cir. 1998) (per curiam), Huffine is not entitled to a ten-day period to object to the Findings and Recommendation.

Based on the foregoing, the Court enters the following:

RECOMMENDATION

Huffine's Motion to Proceed In Forma Pauperis should be DENIED and Huffine should be given ten (10) working days from the date of the Order denying his motion to pay the full filing fee of \$350.00. If he fails to pay the full filing fee within that time, the action should be dismissed and the Clerk of Court should close the case.

The Clerk of Court shall immediately forward a copy of the Findings and Recommendation to Huffine and to United States District Judge Sam E. Haddon for his immediate review.

DATED this 23rd day of February, 2007.

/s/ Keith Strong
Keith Strong
United States Magistrate Judge